



IRA A. JACKSON
COMMISSIONER

The Commonwealth of Massachusetts
Department of Revenue
Leverett Saltonstall Building
100 Cambridge Street, Boston 02204

January 19, 1984

You inquire as to your Massachusetts income tax liability and filing requirements as a Massachusetts resident who will be posted in Africa until 1985 as a member of the United States Foreign Service.

A resident of Massachusetts who receives gross income in excess of \$2,000 must file a Massachusetts income tax return. For Massachusetts income tax purposes "resident" is defined as "any natural person domiciled in the Commonwealth".

An individual who is a Massachusetts domiciliary will remain so and will be subject to Massachusetts income taxation until he establishes a new domicile out-of-state with the intention of making the new location his home. Neither a temporary nor protracted absence from Massachusetts will effectuate a change of domicile for an individual unless all the requisites for such a change are present.

Massachusetts gross income is federal gross income with certain modifications not relevant to this inquiry. (G.L. c. 62, §§ 1, 2). Generally, for federal income tax purposes, the salaries of employees or officials of the United States government are includible in federal gross income and taxed the same as for other individuals. However, Section 912 of the Internal Revenue Code ("Code") specifically exempts from taxation certain allowances paid to government employees overseas. Government civilian personnel receiving "foreign area allowances" under Chapter 9 of Title I of the Foreign Service Act of 1980 and certain other statutes can exclude such amounts from gross income. However, "post differentials"

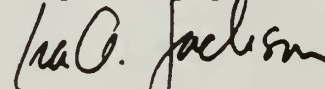
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are not excludable. "Cost-of-living allowances" in accordance with regulations approved by the President received by government civilian personnel stationed outside the continental United States are excludable with certain exceptions.

Although in some cases a portion of foreign-source earned income is excludable from federal gross income under Section 911 of the Code, this exclusion does not apply to payments made by the United States or its agencies to United States citizens who are federal employees. (I.R.C. § 911(b)(1)(B)(ii)).

Based on the foregoing, it is ruled that you are required to file a Massachusetts income tax return reporting salary and allowances received by you as a member of the United States Foreign Service posted outside the continental United States to the extent that such amounts are includible in your gross income for federal income tax purposes.

Very truly yours,

A handwritten signature in dark ink, appearing to read "W. O. Jackson", written in a cursive style.

Commissioner of Revenue

IAJ:ADH:mf

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